

Dallas Erickson
Testimony
Senate Bill 276
Senate Judiciary Committee
15 February 2011

SENATE JUDICIARY

2/15/11
SB 276

Mr. Chair and Members of the Committee,

We rise to ask you to table this bill permanently. We recognize that the Montana Supreme Court has ruled part of the Deviate Sexual Conduct law unconstitutional but we consider the Supreme Courts ruling as a usurpation of the legislature's right and duty to address the people's will.

Our organization filed an Amicus Curiae or Friend of the Court brief in the *Gryczan* case and I would like to read to you a short quote from that brief that was filed by our attorney Stuart Bradshaw.

"The statute under attack is one of the oldest criminal statutes in Montana law, deeply rooted in the values and societal attitudes of the citizens of this State. These values and attitudes are reflected in the legislators elected to represent the citizens of this State and in the laws which they enact or perpetuate. The issue before the Court, the constitutionality of §45-5-505, MCA, is a significant political, moral and public policy issue. However, also at issue before the Court is the question of which branch of government should properly be making political, moral and public policy decisions.

"A proposal at the 1972 Constitutional Convention to include a provision in the Declaration of Rights stating that '[p]rivate sexual acts between consenting adults do not constitute a crime' was defeated by a vote of 69 to 16. In light of this history, a ruling by this Court that the right to privacy in Montana, found at article II, section 10 of the Montana Constitution, is so broad and sweeping that it prohibits the legislative branch of our State government from prohibiting consensual, private same-sex conduct between adults would arguably be an encroachment on the domain of the legislative branch of the State of Montana. . . . It appears that the very issue before the Court may be the subject of various pieces of legislation to be introduced in the next legislative session. Change in the present statute is possible in the legislative arena. Amicus Curiae MCDL would urge the Court to allow the legislative branch to engage this debate and eventually determine this public policy issue".

Please stay engaged in this debate. Leave the Deviate Sexual Conduct Law alone. It is our hopes that in the near future we may have a Montana Supreme Court that does not legislate laws and continue to expand the Right To Privacy far beyond that intended by the framers of the present Montana Constitution and thus precluding the legislative branch of our State Government from acting for the people.

Although the homosexuals and their supporters deny that they have an agenda, unless you were living in a hole for the past two decades you can't help but see it and understand, that in order for them to have acceptance of their deviate sexual conduct they have to get rid of this law.

Montana adopted a sodomy law with the common-law definition as soon as the territorial legislature met in 1865. It has been on the books every since. In order to get acceptance of their deviate lifestyle the homosexuals and their supporters had to get rid of all the laws against deviate sexual conduct or sodomy all over America. Virtually every state had a law against sodomy. Many applied to sodomy between a husband and wife.

The people did not vote out these laws but by tyranny of their power the courts through out America ruled that the laws were unconstitutional. It is interesting that our Founders had such laws in the colonies but as we slouch toward Gomorrah the term deviate sexual conduct has become a problem for the homosexuals as they work to get their lifestyle choices accepted by all of us.

One reason they have to do that is so they can teach their type of "sexuality" to our youth in the schools. If it is still illegal and referred to as "Deviate Sexual Conduct" it is harder for them to teach such conduct. Conduct that they claim to be as normal as the sexual conduct we were created to be involved in.

As a law enforcement officer in Lincoln County I arrested several homosexuals who molested young boys in a deviate manner. This law can still be used to charge men or women with deviate sexual conduct between themselves and a minor or in the cases of rape.

The court only addressed consenting adults in *Gryczan*. So the law is still good and should remain on the books. In my opinion, deviate sexual assault on a minor creates additional harm to that child and should be available for an additional charge besides statutory rape.

We ask you to leave the law on the books as a tool for law enforcement officers. The law has been used in recent years since the *Gryczan* case and should be available now and beyond.

Thank you.

Dallas D. Erickson
Montana Citizens for Decency through Law
P.O. Box 708
Stevensville MT 59870
montanahome@accessmtwildblue.com
(406)777-5862
Cell: (406)240-5277